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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,554	03/15/2006	Jeremy Marshall	30031171	9236
466	7590	09/18/2007		
YOUNG & THOMPSON 745 SOUTH 23RD STREET 2ND FLOOR ARLINGTON, VA 22202			EXAMINER GETTMAN, CHRISTINA DANIELLE	
			ART UNIT 3734	PAPER NUMBER
			MAIL DATE 09/18/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

10/567,554

Applicant(s) *SP*

MARSHALL ET AL.

Examiner

Christina D. Gettman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7, 10-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 and 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levin et al. (U.S. Patent no. 6,168,606) in view of Burns (U.S. Patent No. 4,527,561). Levin et al. disclose the invention substantially as claimed including a lancet (ref. 10, Fig. 10) having an outer casing (ref. 20, Fig. 1), a drive head (ref. 41, Fig. 10) on the opposite end of a needle (ref. 46, Fig. 10), a removable protective cap over the needle (ref. 90, Fig. 10), a drive spring (ref. 50, Fig. 5), and the drive head having a flange (ref. 42, Fig. 11) that rests on a movable rib of the casing (ref. 71 and 72, Fig. 11). Levin et al. do not disclose two undulating webs on each side of the needle. Burns teaches using a spring on the distal end of a lancet device that is in a relaxed configuration and is then compressed when the device is activated for the purpose of retracting the needle back into the device. Therefore, it would have been obvious to one having ordinary skills in the art at the time of the invention to have modified Levin et al. with a distal spring on the distal end of the device in order to aid in retracting the needle back into the casing after use. This distal spring acts in the same way that the webs act in the present application. It would have been obvious to have changed the spring, which surrounds the needle, into two undulating webs (which are

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used in one of the embodiments of the device) that are on each side of the needle. It would have also been obvious to have made them out of phase with one another. The distal spring of Burns must be made out of a flexible material if it can be decompressed and compressed. It is well-known to connect caps on lancets by breakable parts for the purpose of allowing a user to break over the cap prior to use and to allow for the cap to protect the end of the needle. Since the distal spring of Burns is attached to the distal end of the device and would, therefore, be attached to the distal end of the drive head of Levin et al. the protective cap would then be connected to the spring indirectly. It is also well-known to use a plastic material to make a spring and/or webs. Therefore, it would have been obvious to one having ordinary skill in the art at the time of the invention to have modified Burns with the distal spring being made out of a flexible plastic in order for the spring to compress and decompress.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-7 and 10-13 have been considered but are moot in view of the new ground(s) of rejection.

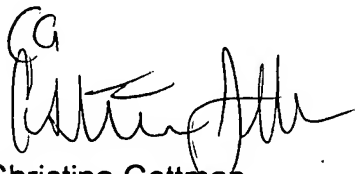
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christina D. Gettman whose telephone number is 571-272-3128. The examiner can normally be reached on Monday-Friday 8:00 am to 4:30 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hayes can be reached on 571-272-4959. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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571-272-3128



MICHAEL J. HAYES  
SUPERVISORY PATENT EXAMINER